UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

TEXACO CALIFORNIA INC., and
TEXACO EXPLORATION AND
PRODUCTION INC.,

Defendants.

Plaintiff, the United States of America, by the authority of the Attorney General and at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), by and through its undersigned attorneys, alleges as follows:

## NATURE OF ACTION

1. This is a civil action pursuant to Section 113(b) of the Clean Air Act (the "Act"), 42 U.S.C. §§ 7401-7671q, for injunctive relief and the assessment of civil penalties against Texaco California Inc. ("TCI") and Texaco Exploration and Production Inc. ("TEPI") (collectively, "Defendants") for violations of the Act, the federally-approved and federally-enforceable California State Implementation Plan, and one or more permits issued by EPA and the San Joaquin Valley Unified Air Pollution Control District ("SJVUAPCD").

## JURISDICTION AND VENUE

2. This Court has jurisdiction over the parties and subject matter of this action pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. Venue is appropriate in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in this Complaint occurred in this District.

4. Notice of the commencement of this action has been provided to the State of California through the California Air Resources Board ("CARB") and the SJVUAPCD, as required by Section

113(b) of the Act, 42 U.S.C. § 7413(b).

## DEFENDANTS

5. Defendant Texaco California Inc. is a corporation organized under the laws of the State of Delaware and authorized to do business in California. Defendant Texaco Exploration and Production Inc. is a corporation organized under the laws of the State of Delaware and authorized to do business in California.

6. At all times relevant to the allegations in this Complaint, TEPI owned and operated the Kern River Oil Field ("Kern River Field") and TCI owned and operated the Midway-Sunset Oil Field ("Midway-Sunset Field") in western Kern County, California, at which Defendants use steam-enhanced oil recovery techniques to produce crude oil.

7. TCI and TEPI are "persons" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

## STATUTORY AND REGULATORY AUTHORITY

8. The Administrator of EPA, pursuant to authority under Section 109 of the Act, 42 U.S.C. § 7409, promulgated National Ambient Air Quality Standards ("NAAQS") for certain criteria pollutants, including ozone, to protect the public health and public welfare. 40 C.F.R. § 50.9.

9. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator promulgated lists of attainment status designations for each air quality control region ("AQCR") in every

State. These lists identify the attainment status of each AQCR for each of the criteria pollutants. Areas that meet the NAAQS or cannot be classified due to insufficient data are called "attainment" areas; areas that do not meet the NAAQS are called "nonattainment" areas. The ozone attainment status designations for the California AQCRs are listed at 40 C.F.R. § 81.305.

10. The Kern County Air Pollution Control District ("KCAPCD") had jurisdiction over the Kern County portion of the San Joaquin Valley Air Basin, which has been designated as a serious nonattainment area for the NAAQS for ozone. On April 1, 1991, the SJVUAPCD replaced the KCAPCD and several other county air districts in the San Joaquin Valley, and assumed jurisdiction over the Kern County portion of the San Joaquin Valley Air Basin.

11. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to submit to the Administrator for approval a plan, known as the State Implementation Plan ("SIP"), to provide for the implementation, maintenance, and enforcement of the NAAQS. Section 110(a)(2)(A) of the Act, 42 U.S.C. § 7410(a)(2)(A), requires that each SIP include enforceable emission limits as may be necessary or appropriate to meet the applicable requirements of the Act. Once approved by EPA, these SIP regulations become enforceable by the United States.

12. Section 110(a)(2)(C) of the Act, 42 U.S.C. § 7410(a)(2)(C), requires that each SIP for a nonattainment area include a permit program as provided in Part D of Title I of the Act, 42 U.S.C. §§ 7501-7515 (hereafter "Part D"). Part D and its implementing regulations, 40 C.F.R. § 51.165, set out requirements for SIPs for nonattainment areas in order to ensure the areas will attain the NAAQS on or before the attainment date.

13. Each SIP shall require issuance of permits before the construction and operation of any new or modified major stationary source in the nonattainment area in accordance with Sections

172(c)(5) and 173 of the Act. 42 U.S.C. §§ 7502(c)(2) & 7503.

14. Section 173(a)(1)(A), 42 U.S.C. § 7503(a)(1)(A), requires that a source obtain sufficient offsetting emissions reductions by the time the source is to commence operation so as to represent reasonable further progress toward attainment of the NAAQS.

15. Section 173(a)(2), 42 U.S.C. § 7503(a)(2), provides that permits to construct and operate may be issued only if the proposed source is required to comply with the Act's requirements for Lowest Achievable Emission Rate.

16. On September 22, 1972, the Administrator approved 40 C.F.R. Part 52.233, "Review of new sources and modifications," for the Kern County portion of the San Joaquin Valley Air Basin, since the KCAPCD regulations did not meet the requirements of 40 C.F.R. § 51.18, which set forth permitting requirements for new and modified sources. See 37 Fed. Reg. 19,812 (September 22, 1972).

17. KCAPCD Rule 201 (Permits Required) was, and Rule 210.1 (Standard for Authority to Construct) is, also part of the federally-approved and federally-enforceable SIP submitted to EPA by the State of California pursuant to 42 U.S.C. § 7410 and Part D of the Act. See 47 Fed. Reg. 29,233 (July 6, 1982) (Rule 201) and 46 Fed. Reg. 42,460 (August 21, 1981) (Rule 210.1).

18. KCAPCD Rule 201(a), Authority to Construct, requires that any person building, altering, or replacing any equipment, the use of which may cause the issuance of air contaminants or the use of which may eliminate or reduce or control the issuance of air contaminants, shall first obtain authorization from the air pollution control officer.

19. KCAPCD Rule 201(b), Permit to Operate, requires that before any new or modified equipment described in Rule 201(a) or any existing equipment so described shall be operated, a written

permit shall be obtained from the air pollution control officer.

20. KCAPCD Rule 210.1 sets forth the requirements for KCAPCD's preconstruction review of new stationary sources and modified or relocated existing stationary sources to ensure that the operation of such stationary sources does not interfere with progress in attainment of the NAAQS, as required by Part D of the Act. Pursuant to Rule 210.1, hydrocarbons and substituted hydrocarbons (reactive organic gases), also known as volatile organic compounds ("VOCs"), are regulated as precursors to ozone pollution.

21. KCAPCD Rule 210.1(1)(B) defines "Lowest Achievable Emission Rate" ("LAER") to mean for any stationary source or modification the more stringent of:

1. The most effective emissions control technique which has been achieved in practice, for such class or category of source; or

2. The most effective emission limitation which the Federal Environmental Protection Agency certifies is contained in the implementation plan of any State approved under the Clean Air Act for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

3. The emission limitation specified for such class or category of source under applicable Federal new source performance standards pursuant to Section 111 of the Clean Air Act; or

4. Any other emissions control technique found, after public hearing, by the Control Officer or the Air Resources Board to be technologically feasible and cost effective for such class or

category of sources or for a specific source.

22. KCAPCD Rule 210.1(1)(D) defines "modification" to mean any physical change in, change in the method of operation of, or addition to an existing stationary source, except that routine maintenance or repair shall not be considered to be a physical change.

23. KCAPCD Rule 210.1(1)(E) defines "precursor" to mean a directly emitted air contaminant that, when released to the atmosphere, forms or causes to be formed or contributes to the formation of a secondary pollutant for which a NAAQS has been adopted or whose presence in the atmosphere will contribute to the violation of one or more NAAQS.

24. KCAPCD Rule 210.1(1)(G) defines "stationary source" to include any structure, building, facility, equipment installation or operation (or aggregation thereof) which is owned, operated, or under shared entitlement to be used by the same person and which is located within the District on:

1. One property or bordering properties; or

2. One or more properties wholly within either the Western Kern County Oil Fields or the Central Kern County Oil Fields and is used for the production of oil.

25. KCAPCD Rule 210.1(1)(I) defines "major stationary source" to mean a stationary source that emits 200 pounds or more during any day of any air contaminant for which there is a NAAQS or any precursor of such contaminant.

26. KCAPCD Rule 210.1(3)(C) states that Section 5B of Rule 210.1 shall apply to all new stationary sources or modifications that will result in a net increase in emissions of 200 pounds or more during any day of any air contaminant for which there is a NAAQS (excluding carbon monoxide) or any precursor of such a contaminant.

27. KCAPCD Rule 210.1(5)(B) requires that all new stationary sources and modifications subject to this Section shall be constructed using LAER, and mitigation (offsets) shall be required for such net emission increases (increases after the application of LAER).

28. SJVUAPCD Rule 463.2 (Storage of Organic Liquids) is a part of the federally-approved and federally-enforceable California SIP. 58 Fed. Reg. 28,354 (May 13, 1993).

29. SJVUAPCD Rule 463.2 applies to equipment used to store organic liquids, including crude oil, with a true vapor pressure ("TVP") of greater than 1.5 pounds per square inch absolute ("psia"). Pursuant to Rule 463.2(IV)(C)(1), no person shall place, store or hold in any fixed roof tank of 19,800 gallons (471 barrels) or greater any organic liquid unless the tank is equipped with a vapor loss prevention system, consisting of a system capable of collecting all VOCs, and a system for processing and for return to liquid storage or disposal of VOCs, so as to prevent VOC emissions to the atmosphere at an efficiency of at least 95 percent by weight.

30. SJVUAPCD Rule 463.2(V)(A)(1) requires a person whose tanks are subject to the requirements of Rule 463.2 to keep an accurate record of liquids stored in each container, the storage temperature, and the Reid vapor pressure of such liquids.

31. Pursuant to Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), when the Administrator finds that a person has violated or is in violation of any requirement or prohibition of an applicable SIP or permit, the Administrator shall notify that person, as well as the State in which the SIP applies, of such finding. The Administrator is then authorized to commence a civil action under Section 113(b) of the Act, 42 U.S.C. § 7413(b), at any time more than thirty days from the date the Notice of Violation ("NOV") was issued.

32. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), EPA may commence a

civil action for injunctive relief and civil penalties not to exceed $25,000 per day for each violation of the Act, including violations of SIPs. **PURSUANT TO** the Debt Collection Improvement Act of 1996, Pub. L. 104-134, and 40 C.F.R. §§ 19.2, 19.4 (Table), civil penalties of up to $27,500 per day per violation may be assessed for violations occurring after January 30, 1997.

## GENERAL ALLEGATIONS

33. TEPI owns and operates the Kern River Field, and TCI owns and operates the Midway-Sunset Field. Both Fields are located in the Kern County portion of the San Joaquin Valley Air Basin Area, and are major stationary sources as defined by KCAPCD Rule 210.1(1).

### The Kern River Field

34. On December 31, 1984, Texaco acquired the Getty Oil Company, which owned the Kern River Field.

35. Steam flooding, a method of steam-enhanced crude oil production, commenced in the Kern River Field in 1964. By 1984, when the Kern River Field was fully developed, TEPI injected approximately 600,000 barrels of steam per day into the Kern River Field through 2,000 steam injection wells. At that time, steam flood zone temperatures in the Kern River Field ranged from 300°-350°F. By 1992, TEPI reduced the steam injection rate in the Kern River Field to less than 300,000 barrels of steam per day, which resulted in a drop in the steam flood zone temperature to 220°F.

36. When steam flood zone temperatures in the Kern River Field ranged from 300°-

350°F, TEPI estimated that 220 lb/day of VOCs were emitted from open casing vents at each production well. When the steam flood zone temperature dropped to 220°F, TEPI estimated that .5 to 38 lb/day of VOCs were emitted from open casing vents at each production well.

Permitting in the Kern River Field

37. On June 24, 1976, EPA, pursuant to 40 C.F.R. §§ 51.18 and 52.233(g), issued a new source review permit SJ 76-04 (NSR 4-4-8) to Getty Oil Company, TEPI's predecessor in interest, for the construction and operation of 62 steam generators located at the Kern River Field. Special Condition VII.D of permit SJ 76-04 requires Getty to operate a hydrocarbon recovery system on steam displacement wells in the Kern River Field to recover gases that would otherwise be emitted to the atmosphere from production well casing vents, and to add hydrocarbon recovery systems to recover casing gases from any future steam displacement wells.

38. On August 16, 1988, KCAPCD issued an authority to construct permit ("ATC") 4003701J to Texaco for the operation of 5,030 thermally-enhanced crude oil production wells in the Kern River Field. Pursuant to this ATC, Texaco was required to install and operate vapor recovery equipment to capture casing vent gases from the 5,030 wells. Subsequently, the SJVUAPCD issued Permit to Operate ("PTO") S-1131-716-10 for the operation of this vapor recovery equipment.

39. On October 1, 1991, TEPI applied to the SJVUAPCD for an ATC for 720 steam-enhanced crude oil production wells with closed casing vents. In May 1995, the SJVU issued ATC-S-1131-262-0 for these wells. As of March 1, 2000, TEPI had 366 active wells and 248 inactive wells that could potentially be operated under this permit.

Removal of Vapor Recovery Equipment and Addition of New Wells in the Kern River Field

40. In June 1994, TEPI started removing vapor recovery equipment from the casing vents of 5,030 thermally-enhanced crude oil production wells in the Kern River Field. As part of this work, TEPI enclosed the casing vents of these wells. TEPI completed this work in September 1996. TEPI did not apply for a permit for this removal until after completing the work.

41. On November 1, 1996, TEPI submitted an ATC permit application to the SJVUAPCD for the disconnection of vapor recovery equipment from 5,030 thermally-enhanced crude oil production wells in the Kern River Field.

42. On April 26, 1999, the SJVUAPCD issued ATC S-1131-716-15 to TEPI, authorizing TEPI to operate no more than 6,280 steam drive crude oil production wells with closed casing vents. These 6,280 wells include the existing 5,030 wells, from which VOC emissions had previously been controlled by vapor recovery equipment, plus an additional new 1,250 closed casing vent wells authorized by the permit.

43. Condition 3 of ATC S-1131-716-15 requires TEPI to send fluids produced by the 6,280 wells to certain Kern River Field tanks that are vented to an approved vapor collection and control system that achieves at least 99% overall vapor control.

The Midway-Sunset Field's Crude Oil Storage Tanks

44. The Midway-Sunset Field contains fixed-roof crude oil storage tanks in lease areas

known as Star, McDonald, Station 109, and Station 2-22. TCI acquired these lease areas in November 1997. At various times, TCI has placed, stored, or held in these fixed-roof tanks crude oil with a TVP of greater than 1.5 psia. The fixed-roof storage tanks do not have a vapor loss prevention system.

45. TCI has not kept accurate records of either the liquids stored in each of these fixed-roof crude oil storage tanks, the storage temperature of the liquids, or the Reid vapor pressure of the liquids.

EPA's Notice of Violation

46. On June 12, 2001, EPA issued TEPI and TCI an NOV pursuant to Section 113(a) of the Act, 42 U.S.C. § 7413(a), alleging that TEPI and TCI had violated the Act. EPA provided a copy of the NOV to the appropriate SJVUAPCD and CARB officials.

**FIRST CLAIM FOR RELIEF**

(720 Wells - Failure to Apply LAER)

47. Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth below.

48. On October 1, 1991, TEPI applied to the SJVUAPCD for an ATC for 720 inactive steam-enhanced crude oil production wells with closed casing vents. TEPI did not obtain ATC S-1131-262-0 or a PTO for these wells until May 1995.

49. TEPI violated KCAPCD Rule 210.1 by failing to apply LAER to the operation of the 720 wells authorized by ATC S-1131-262-0.

50. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**SECOND CLAIM FOR RELIEF**

(720 Wells - Failure to Provide Offsets)

51. Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth below.

52. TEPI violated KCAPCD Rule 210.1 by failing, within 90 days of initial startup, to provide offsets for net VOC emission increases associated with the operation of the 720 wells authorized by ATC S-1131-262-0.

53. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**THIRD CLAIM FOR RELIEF**

(720 Wells - Failure to Comply with Permit)

54. Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth

below.

55. TEPI violated EPA permit SJ 76-04 (NSR 4-4-8), Special Condition VII.D., by commencing operation of the 720 wells authorized by SJVUAPCD ATC S-1131-262-0 without installing and operating a hydrocarbon recovery system on these wells.

56. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**FOURTH CLAIM FOR RELIEF**

(5,030 Wells - Failure to Obtain Permit)

57. Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth below.

58. Between June 1994 and September 1996, TEPI removed vapor recovery equipment from the casing vents of 5,030 thermally-enhanced crude oil production wells in the Kern River Field, and operated the wells without vapor recovery equipment. TEPI's removal of the vapor recovery equipment constituted a physical change in, and a change in the method of operation of, the 5,030 wells.

59. On April 26, 1999, the SJVUAPCD issued ATC S-1131-716-15, which authorized the operation of these existing 5,030 wells without casing vent vapor recovery equipment. TEPI violated KCAPCD Rule 201 by failing to obtain a valid ATC and valid PTO for the removal of the vapor recovery equipment.

60. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to

injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**FIFTH CLAIM FOR RELIEF**

(5,030 Wells - Failure to Comply with LAER)

61.

Paragraphs 1 through 46 and Paragraph 58 are realleged and incorporated herein as if fully set forth below.

62. KCAPCD Rule 210.1 requires a source owner or operator to apply LAER to a modification that will result in a 200 lb/day net increase in VOC emissions. TEPI violated KCAPCD Rule 210.1 by failing to apply LAER when it modified an existing stationary source by removing the vapor recovery equipment from the existing 5,030 wells.

63. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**SIXTH CLAIM FOR RELIEF**

(5,030 Wells - Failure to Provide Offsets)

64. Paragraphs 1 through 46 and Paragraph 58 are realleged and incorporated herein as if fully set forth below.

65. KCAPCD Rule 210.1 requires a source owner or operator, within 90 days of initial

startup of a modification, to offset net emission increases associated with the modification. TEPI violated KCAPCD Rule 210.1 by failing to offset, within 90 days of initial removal of vapor recovery equipment from the existing 5,030 wells, net emission increases associated with the modification.

66. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**SEVENTH CLAIM FOR RELIEF**

(5,030 Wells - Failure to Comply with Permits)

67. Paragraphs 1 through 46 and Paragraph 58 are realleged and incorporated herein as if fully set forth below.

68. TEPI violated EPA permit SJ 76-04 (NSR 4-4-8), Special Condition VII.D., by removing vapor recovery equipment from the existing 5,030 wells.

69. TEPI violated KCAPCD ATC 4003701J and SJVUAPCD PTO S-1131-716-10 by removing vapor recovery equipment from the existing 5,030 wells.

70. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TEPI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**EIGHTH CLAIM FOR RELIEF**

(Storage Tanks - Failure to Provide Vapor Recovery)

71.

Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth below.

72. TCI violated SJVUAPCD Rule 463.2 by introducing fluids with a TVP greater than 1.5 psia into fixed-roof tanks that do not have vapor recovery at the Star, McDonald, Station 109, and Station 2-22 lease areas in the Midway-Sunset Field.

73. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TCI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

**NINTH CLAIM FOR RELIEF**

(Storage Tanks - Failure to Keep Records)

74. Paragraphs 1 through 46 are realleged and incorporated herein as if fully set forth below.

75. TCI violated SJVUAPCD Rule 463.2 for these fixed-roof tanks at Star, McDonald, Station 109, and Station 2-22 by failing to keep adequate records of liquids stored in each tank, the liquids' storage temperature, and the liquids' Reid vapor pressure.

76. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), TCI is subject to injunction and liable for a civil penalty of up to $25,000 per day for each such violation occurring through January 30, 1997, and a civil penalty of up to $27,500 per day for each violation occurring after January 30, 1997.

## PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that this Court:

1. Issue an injunction requiring TEPI and TCI to remedy their past noncompliance with the Act and the California SIP, and to comply prospectively with the applicable requirements;

2. Assess civil penalties against TEPI and TCI for up to $25,000 per day for each violation of the Act through January 30, 1997, and up to $27,500 per day for each violation of the Act after January 30, 1997;

3. Grant the United States costs and disbursements incurred in this action; and

4. Grant the United States such other relief as the Court deems just and proper.

Respectfully submitted,

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